

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Yogesh K. Gandhi) MUR 4530

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the DNC Services Corporation/Democratic National Committee ("DNC"). An investigation was conducted, and the Federal Election Commission ("Commission") found reason to believe that Yogesh K. Gandhi ("Respondent") violated 2 U.S.C. § 441e(a).

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 1. Yogesh K. Gandhi ("Gandhi") is a citizen of the United States, and the Founder of the Gandhi Memorial International Foundation.
 2. Yoshio Tanaka ("Tanaka") is a Japanese citizen.
 3. Hogen Fukunaga ("Fukunaga") is a Japanese citizen, and the leader of Ho-no-Hana Sampogyo.
 4. Foreign nationals are prohibited from contributing money, or anything of value, to a candidate for any political office, including Federal, State, or local office, either directly or through any other person, pursuant to 2 U.S.C. § 441e(a) and 11 C.F.R. § 110.4(a).
 5. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits the

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solicitation, making, and receipt of any campaign contribution from foreign nationals. 2 U.S.C. § 441e(a). These prohibitions apply to all federal, state, and local elections. 11 C.F.R. § 110.4(a)(1).

6. Foreign nationals are also prohibited from directing, dictating, controlling, or directly participating in the decision-making process of any person, including domestic corporations, with regard to decisions concerning the making of contributions in connection with elections for any local, State, or Federal office. 11 C.F.R. § 110.4(a).
7. A foreign national is an individual who is neither a citizen of the United States nor a lawfully admitted permanent resident, as defined by section 1101(a)(20) of Title 8. 2 U.S.C. § 441e(b).
8. In or about May 1995, Gandhi and Tanaka agreed that Gandhi would provide public relations services to enhance Fukunaga's international reputation by arranging publicity events and introducing Fukunaga to prominent individuals.
9. In February 1996, Gandhi wrote a letter to the White House informing them that the Foundation had selected President Clinton as a recipient of the Gandhi Award, and that he hoped to arrange an opportunity to present it to him in March 1996. Gandhi was also hoping that Fukunaga, as the previous recipient of the award, would be able to give it to the President. The White House replied to Gandhi that the President's schedule could not accommodate the acceptance of the award on Gandhi's proposed date, but that they would notify Gandhi in a few weeks regarding his invitation.
10. Gandhi turned to K.E. Santhanam, who was involved with the Asian Pacific Caucus, for assistance. Mr. Santhanam spoke to Yah Lin "Charlie" Trie about Gandhi's desire to present the award to the President at the May 13, 1996 Sheraton-Carlton Hotel dinner, and Trie confirmed that Gandhi would be able to do so at the dinner.
11. On May 13, 1996, Gandhi met with Yah Lin "Charlie" Trie to arrange for payment so that Gandhi's party of between 30 and 40 people could enter the fund-raising dinner at the Sheraton-Carlton Hotel. On the same day, Gandhi wrote a check for

\$325,000 to the Democratic National Committee so that his party could attend the fund-raiser.

12. The funds provided for the \$325,000 contribution were furnished by Yoshio Tanaka, a citizen of Japan. At some point between the time when the check was written on May 13, 1996, and June 13, 1996, when the check was cashed, Tanaka wired a total of \$500,000 to Gandhi's bank account.
- V. Respondent knowingly and willfully received funds from a foreign national intended for a contribution in violation of 2 U.S.C. § 441e(a).
- VI. Respondent acknowledges that the Commission would ordinarily seek a civil penalty equal to two hundred per cent (200%) of the amount in violation or six hundred fifty thousand dollars (\$650,000) for this type of activity, but has agreed to accept a twenty five hundred dollar (\$2500) civil penalty in settlement of the matter for the following reasons:
1. Respondent pled guilty to one count of mail fraud, 18 U.S.C. § 1341; one count of tax evasion, 26 U.S.C. § 7201; and one count of aiding and abetting the making of a contribution by a foreign national, a violation of 2 U.S.C. § 441e and 18 U.S.C. § 2.
 2. Respondent served a term of 1 year in prison and is currently serving a three year period of supervised release.
 3. As a representation material to the Commission's agreement to forego a greater civil penalty, by signing this agreement Respondent represents that his financial condition is as follows:

ASSETS

Cash

Bank Accounts

Securities (Note A)

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Note A: The companies listed under the Securities section are closely held corporations whose fair market value is speculative.

Unencumbered Assets

Equity in Other Assets

Equity

TOTAL ASSETS

DEBTS

Secured Debt

Unsecured Debts

11-10-77

Total Non-Mortgage Debts

NET WORTH

MONTHLY CASH FLOW

Income

Spouse

Self (Note D)

Note D: Mr. Gandhi's present employment income is per month gross. However, \$500 of this income is required to be remitted to the United States Probation Office as a condition of his supervised release.

Total Income

Necessary Living Expenses

Mortgage

Home tax, insurance and maintenance

Electric

Water/Sewer

Telephone

Groceries/Supplies (organic food)

Auto Insurance

Health Insurance

Minimum installment payments for charge cards

Transportation

Medical

Clothing

Cable/cell phone

Total Necessary Expenses

NET MONTHLY CASH FLOW

VII. Respondent will pay a civil penalty to the Federal Election Commission in the

amount of twenty-five hundred dollars (\$2500), pursuant to 2 U.S.C. §

437g(a)(5)(A).

- VIII. Respondent undertakes and agrees that at the Commission's written request, on reasonable notice and without service of a subpoena, Respondent will produce all relevant documents to the Commission staff and make himself available for depositions and interviews by the Commission staff, if so requested, during the pendency of this and related matters under review and at any judicial proceedings brought by the Commission as a result of its investigation in this and related matters under review.
- IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.
- X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.
- XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents or either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lois M. Lerner by AAS
Lois G. Lerner
Acting General Counsel

6/21/01
Date

FOR THE RESPONDENT:

Karen L. Snell
Karen L. Snell
On behalf of Yogesh Gandhi

April 25, 2001
Date

1905-504-40-33